

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

PEDRO CRUZ-PEÑA, on behalf of himself,  
individually, and on behalf of all others similarly  
situated,

Plaintiff,

- against-

GREAT KITCHEN SUPPORT CORP., and  
CHRISTIAN DIAZ, individually,

Defendants.

**24 CV 6263 (PKC) (RML)**

**DECLARATION OF ANTHONY P. CONSIGLIO, ESQ.  
IN SUPPORT OF PLAINTIFF'S MOTION FOR CONDITIONAL CERTIFICATION,  
DISCLOSURE OF CONTACT INFORMATION,  
LEAVE TO DISTRIBUTE NOTICE, AND  
EQUITABLE TOLLING PURSUANT TO 29 U.S.C. § 216(b)**

I, Anthony P. Consiglio, an attorney duly admitted to practice in this Court, declare under the penalty of perjury pursuant to 28 U.S.C. § 1746 that the following is true and correct based upon my knowledge, information, and belief:

1. I am an attorney at Borrelli & Associates, P.L.L.C., and am counsel for Plaintiff Pedro Cruz-Pena and Opt-In Plaintiffs Dianelba Suriel and Amalia Godinez in this matter. I submit this Declaration in support of Plaintiffs' motion for conditional certification, disclosure of contact information, leave to distribute notice, and equitable tolling, pursuant to 29 U.S.C. § 216(b).

2. On September 6, 2024, Plaintiff filed the Complaint in this action (ECF No. 1) on behalf of himself, individually, and on behalf of all other similarly situated employees against his former employers, Defendants Great Kitchen Support Corp. and Cristian Diaz, individually,<sup>1</sup> for,

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<sup>1</sup> Sued herein with an incorrect spelling of his first name as Christian Diaz, individually.

*inter alia*, Defendants' violations of the overtime provisions of the Fair Labor Standards Act ("FLSA"), as well as various provisions of the New York Labor Law and its supporting regulations.

3. To date, Plaintiff and two opt-in Plaintiffs have filed Consents To Join Collective Action. (ECF Nos. 4, 5, and 15).

4. On December 20, 2024, Defendants filed their Answer to the Complaint. (ECF No. 16).

5. The parties' counsel appeared for a Rule 16 conference before Magistrate Judge Levy on February 10, 2025. In advance of that conference, Plaintiffs' counsel Brian Nettle and I each successively requested that Defendants consent to conditional certification of this action as a collective action, and I requested that Defendants' counsel let me know of any grounds why Defendants would not consent. The parties then discussed Plaintiffs' anticipated motion to certify this action as a collective action with the Court at the February 10, 2025 Rule 16 conference. After the conference, I followed up with Defendants' counsel, again requesting consent to conditional certification or any grounds for opposing conditional certification. Defendants' counsel replied and asked for an additional 10 days to consider the matter. Again, after the passage of 10 days, Defendants' counsel did not have an answer. Consequently, I do not know whether Defendants intend to oppose this motion or not, and if so, on what grounds. I will follow up with Defendants' counsel once this motion is filed to renew my request that they consent to the motion without opposition and without the need for a determination by the Court.

6. A proposed FLSA collective action notice of pendency and consent to join form is attached hereto as Exhibit A.

7. A proposed FLSA collective action notice of pendency reminder notice is attached hereto as Exhibit B.


8. A proposed text message, which will contain a link to the notice or reminder notice, as appropriate, located on our firm's website, is attached hereto as Exhibit C.

9. A proposed email, which will contain the FLSA collective action notice of pendency, or reminder notice, when appropriate, as an email attachment, is attached hereto as Exhibit D.

Dated: Garden City, New York  
February 20, 2025

Respectfully submitted,

BORRELLI & ASSOCIATES, P.L.L.C.  
*Attorneys for Plaintiffs*  
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Garden City, New York 11530  
Tel. (516) 248-5550  
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By:   
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Anthony P. Consiglio